

BEFORE THE DEPARTMENT OF ADMINISTRATION  
OF THE STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF PROPOSED  
ARM 2.21.6702, 2.21.6703, 2.21.6708, ) AMENDMENT  
and 2.21.6709 pertaining to the )  
Incentive Award Program ) NO PUBLIC HEARING  
 ) CONTEMPLATED

TO: All Concerned Persons

1. On April 12, 2010, the Department of Administration proposes to amend the above-stated rules pertaining to the Incentive Award Program.

2. The Department of Administration will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Administration no later than 5:00 p.m. on March 19, 2010, to advise us of the nature of the accommodation that you need. Please contact Brent Reinhardt, Department of Administration, P.O Box 200127, Helena, Montana, 59620-0127; telephone (406) 444-3852; fax (406) 444-0703; Montana Relay Service 711 or TDD (406) 444-3852; or e-mail breinhardt@mt.gov.

3. The rules proposed to be amended provide as follows, new matter underlined, deleted material interlined:

2.21.6702 DEFINITIONS (1) The definitions provided in 2-18-1101, MCA, apply to this subchapter. ~~As used in this sub chapter, the following definitions apply:~~

~~(1) "Agency head" means, as defined in 2-18-1101, MCA, "a director, commissioner, or constitutional officer in charge of an executive, legislative, or judicial branch agency or an agency of the Montana university system. The term includes the president or other person in charge of a unit of the Montana university system."~~

~~(2) "Employee" means, as defined in 2-18-1101, MCA, "any employee of the executive, legislative, or judicial branch or the Montana university system."~~

~~(3) "Group or team of employees" means, as defined in 2-18-1101, MCA, "a group, team or work unit of employees working cooperatively."~~

AUTH: 2-18-1103, MCA

IMP: 2-18-1101, 2-18-1102, 2-18-1103, ~~2-18-1104~~, 2-18-1105, 2-18-1106,  
MCA

STATEMENT OF REASONABLE NECESSITY: These definitions unnecessarily repeat statute, which is prohibited by the Montana Administrative Procedure Act. In addition, 2-18-1104, MCA, is being deleted as an implemented statute as it was repealed in 1993, but the rule does not reflect this change.

2.21.6703 POLICY AND OBJECTIVES (1) ~~It is the~~ The policy of the state of Montana ~~that is:~~

(a) ~~there be~~ an incentive award program ~~that recognizes~~ exists recognizing and monetarily ~~rewards~~ rewarding individual employees, groups, or teams of employees, and nonemployees, ~~as provided in 2-18-1105, MCA~~ for:

(i) " ideas, innovations, or prototypes ~~efforts~~ that significantly contribute to documented achievements or outcomes eliminating or reducing an agency's expenditures; or

(ii) improving the effectiveness or services of state government ~~or improving services to the public~~ by permitting more work to be accomplished within an agency without increasing the cost of governmental operations;"

(b) ~~each state agency~~ managers shall administer the incentive program in a fair and equitable manner and make reasonable accommodation for persons with disabilities who wish to participate in the incentive award program; and

(c) ~~all documents and meetings related to the~~ this program's administration of ~~this program are public information and any meetings called to administer this program is a public meeting.~~

(2) ~~It is the objective of this policy~~ The policy's objective is to:

(a) and (b) remain the same.

AUTH: 2-18-1103, MCA

IMP: 2-18-1101, 2-18-1102, 2-18-1103, ~~2-18-1104~~, 2-18-1105, 2-18-1106, MCA

STATEMENT OF REASONABLE NECESSITY: Section 2-18-1104, MCA, is being deleted as an implemented statute as it was repealed in 1993, but the rule does not reflect this change.

2.21.6708 PROGRAM ADMINISTRATION (1) through (2)(c) remain the same.

(3) To assist agencies in making incentive awards, as provided in 2-18-1103, MCA, the ~~d~~Department of ~~a~~Administration ~~may~~ shall develop the following materials, including, but not limited to:

(a) remains the same.

(b) ~~a guide to requirements of the program~~ to assist an agency head in evaluating the impact of outcomes and achievements or nominations and in determining a monetary value.

AUTH: 2-18-1103, MCA

IMP: 2-18-1103, MCA

2.21.6709 REPORTING REQUIREMENTS (1) ~~In order to comply with 2-18-1106, MCA, each~~ Each agency shall submit to the ~~d~~Department of ~~a~~Administration a list of including:

(a) the number of incentive awards granted; and

(b) to whom each award was granted; and

(c) the estimated value of each achievement or outcome; and

(d) the amount of each award.

(2) The information must be submitted ~~on~~ in a format prescribed by the department ~~with 30 days after the end of~~ by August 1 of each fiscal year.

AUTH: 2-18-1103, MCA

IMP: 2-18-1106, MCA

STATEMENT OF REASONABLE NECESSITY: The Department of Administration is reviewing and revising rules to conform to 2-4-314(1), MCA, which directs departments to conduct biennial review of their rules and modify and amend them if necessary. The last written update of this policy was in 1994. The department has also determined that it is necessary to update and revise the Incentive Award Program policy to support the Governor's initiative to encourage cost saving ideas, and to enhance readability. Although the material in these rules is available to state employees, nonemployees are also eligible for awards and recognition under this statute. There remains enough potential effect on the general public to preserve this information, and make it available, in administrative rule.

4. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to: Brent Reinhardt, Department of Administration, P.O Box 200127, Helena, MT 59620; telephone (406) 444-3852; fax (406) 444-0703; or e-mail breinhardt@mt.gov; and must be received no later than 5:00 p.m., April 9, 2010.

5. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to the person listed in 4 above at the above address no later than 5:00 p.m., April 9, 2010.

6. If the department receives requests for a public hearing on the proposed action from either 10% or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those has been determined to be approximately 1,200 persons based on the number of state employees.

7. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this department. Persons who wish to have their name added to the mailing list shall make a written request which includes the name and mailing address or e-mail address of the person to receive notices and specifies that the person wishes to receive notices regarding the State Human Resources Division rulemaking actions. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or

delivered to the contact person in 4 above or may be made by completing a request form at any rules hearing held by the department.

8. An electronic copy of this proposal notice is available through the department's web site at <http://doa.mt.gov/administrativerules.mcp.x>. The department strives to make the electronic copy of the notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that if a discrepancy exists between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the department works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

9. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

By: /s/ Janet R. Kelly  
Janet R. Kelly, Director  
Department of Administration

By: /s/ Michael P. Manion  
Michael P. Manion, Rule Reviewer  
Department of Administration

Certified to the Secretary of State March 1, 2010.